

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-11935DPW

SHEILA J. PORTER,

Plaintiff,

v.

ANDREA CABRAL, SUFFOLK
COUNTY SHERIFF'S DEPARTMENT,
SUFFOLK COUNTY, and
CORRECTIONAL MEDICAL
SERVICES, INC.,

Defendants.

**DEFENDANT, CORRECTIONAL MEDICAL SERVICES, INC.'S MOTION FOR
COSTS INCURRED IN PREPARING PORTION OF DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT REGARDING PLAINTIFF'S CLAIM FOR INTENTIONAL
INFLICTION OF EMOTIONAL DISTRESS**

Now comes the Defendant, Correctional Medical Services, Inc. (CMS) and respectfully moves that this Court ORDER the Plaintiff to pay defense counsel's costs incurred in preparing the portion of CMS' Motion for Summary Judgment with respect to the plaintiff's intentional infliction of emotional distress claim. As reasons for this motion for costs, the Defendant states as follows:

1. Prior to preparing and filing its Motion for Summary Judgment with this Court, counsel for CMS had several conversations with plaintiff's counsel in which, pursuant to U.S.D.C. Local Rule 7.1(A)(2), she advised that she was planning on filing a motion for summary judgment as to all the claims in the plaintiff's complaint.
2. During these conversations, plaintiff's counsel never relayed to counsel for CMS that it had plans to dismiss any of the plaintiff's claims against CMS.

3. In reliance upon the plaintiff's representations during these conversations, counsel for CMS expended significant amounts of time and other resources preparing CMS' Motion for Summary Judgment as to *all* six counts of the plaintiff's complaint remaining against CMS.
4. One of the six counts against CMS that CMS moved for summary judgment on was plaintiff's claim for intentional infliction of emotional distress.
5. In plaintiff's opposition to CMS' Motion for Summary Judgment the plaintiff voluntarily dismissed her claim against CMS for intentional infliction of emotional distress.
6. In preparing and filing its Motion for Summary Judgment on the count regarding intentional infliction of emotional distress, the associate working on this case spent 12.7 hours of billable time at a rate of \$130.00/hour researching and writing the section relating to this count. This amount does not include any time spent by any other activity related to the summary judgment motion or the time spent on the partner reviewing or revising the section. See Affidavit of Alexandra B. Harvey, attached hereto as Exhibit 1.

WHEREFORE, the Defendant respectfully requests that this Court Order that Plaintiff pay CMS for 12.7 hours of time and resources CMS spent researching and writing the intentional infliction of emotional distress section of its summary judgment motion, in the amount of \$1,651.00.

The Defendant,
CORRECTIONAL MEDICAL
SERVICES, INC.,
By its attorneys,

/s/ Alexandra B. Harvey
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